THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10060 of 2007

Dated: 26-06-2007

Between:

B.Srinivasulu.

..... PETITIONER

AND

The District Collector, Chittoor District, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10060 of 2007

ORDER:

This writ petition is filed challenging the notice dated 14.04.2007 in Form I issued under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (2007 Rules, for brevity) calling upon the petitioner to show-cause as to why the assignment made to him should not be cancelled and the land should not be resumed to the Government for contravention of Section 3(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity). The petitioner prays for a writ of Certiorari to call for the records connected to the impugned notice and to quash the same.

The petitioner alleges that he was one of the twenty-five unemployed candidates belonging to the scheduled caste selected by the Tahsildar under self employment scheme. As part of the scheme, he was assigned Ac.0.50 in survey No.22814, vide D.K.T.No.437/4/90 dated 06.06.1981. His name was also sponsored by the scheduled caste cooperative society, Chittoor, for sanction of a loan for construction of shed for poultry farm. Accordingly he obtained a loan from Andhra Bank and constructed a poultry farm. As the poultry farm was incurring losses, so as to develop a dairy farm, he approached the respondents for assignment of additional extent of Ac.0.50 in survey No.228/15 lying vacant adjacent to his land. He alleges that the proposal was sent by the district revenue officials to the Commissioner of Land Revenue (CLR), who statedly fixed the market value at Rs.2,54,584/- for the additional land and advised the District Collector accordingly. He (petitioner) filed W.P.No.12688 of 1997 on the ground that the market value is exorbitant. This Court disposed of said writ petition on 17.07.1997 giving liberty to the petitioner to make a representation to CLR. Accordingly he submitted a representation on 04.08.1997 to CLR, who permitted the payment of the market value in ten instalments. He allegedly paid the entire market value and developed dairy farm in total extent of Ac.1.00 in survey Nos.228/14 and 228/15. Now the impugned notice was issued to him. He submitted explanation on 27.04.2007 denying the allegation that he transferred the assigned land in contravention of the provisions of the Act.

The learned counsel for the petitioner submits that the impugned notice is defective and was issued without verifying the facts. He also submits that the petitioner never transferred the land to anybody and in the absence of the name of the transferee and details thereof the petitioner cannot be expected to submit an effective reply.

It is now well settled that against a show-cause notice, writ petition

would not lie. In this writ petition, a writ of Certiorari is sought even before the statutory authority passed an order in exercise of the powers conferred. The learned counsel for the petitioner submits that the issuance of notice in Form I by the Tahsildar without furnishing the necessary details as required in Form I amounts to acting without jurisdiction. The submission cannot be accepted.

Section 4 of the Act as amended by Act No.8 of 2007 empowers the Mandal Revenue Officer (Now designated as Tahsildar) to take possession of the assigned land after evicting the person in possession, if he is satisfied that the provisions of Section 3(1) of the Act have been contravened. Section 4(1)(a) of the Act contemplates that the Tahsildar is required to follow the procedure as prescribed, which means as prescribed by 2007 Rules. (see Section 2(5)) The Government of Andhra Pradesh promulgated 2007 Rules in consideration of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977. Rule 3 thereof (2007 Rules) requires the Tahsildar to issue notice in Form I to the person who transferred the assigned land and also notice in Form II to the person who acquired the assigned land, in contravention of the provisions of the Act. It (Rule 3) does not contemplate giving particulars of the transferee but Form I contains a schedule which in column No.(5) speaks of "name of the transferee". Mere non-mention of the name of the transferee would not, in the considered opinion of this Court, vitiate the entire notice itself. It is always open to the aggrieved person to approach the Tahsildar and obtain details.

Admittedly the petitioner submitted explanation after receiving the impugned notice. Therefore, he has to pursue the issue before the authority in the matter. Merely because the notice is defective, he cannot file a writ petition challenging the notice itself. These are all questions of jurisdiction to be raised before the Tahsildar. Liberty is given to the petitioner to place all the material before the Tahsildar during the enquiry and the Tahsildar is directed to dispose of the matter within a period of four weeks from the date of receipt of a copy of this order. Needless to mention that till appropriate order is passed, the petitioner cannot be dispossessed.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

26th June, 2007
ghn